## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA SOUTHERN DIVISION

NO. 7:21-CV-100-FL

DEBRA JEAN OLES,	)	
Plaintiff,	)	
v.	)	ORDER
UNITED STATES OF AMERICA,	)	
Defendant.	)	

This matter comes before the court on defendant's motion to dismiss for insufficient process and service of process, pursuant to Federal Rules of Civil Procedure 12(b)(4) and (5) (DE 8) and on plaintiff's motion for extension of time to effect service, filed on the heels of defendant's motion (DE 23). Issues raised have been fully briefed and in this posture are ripe for ruling. For the following reasons, defendant's motion is denied, and plaintiff's motion is allowed.

## DISCUSSION

Plaintiff has yet to demonstrate proper service of process on the United States, pursuant to Federal Rule of Civil Procedure 4(i)(1), and the time within which to do so expired August 30, 2021. Defendant promotes numerous demonstrated difficulties on the part of plaintiff in adhering to operative rules and court procedures at this early juncture in the case. Plaintiff's counsel speaks in defense of the government's motion and in furtherance of her motion, of his lack of familiarity with the Federal Rules of Civil Procedure and this district's Case Management/Electronic Case File (CM/ECF) system and procedures, where this action is experienced state counsel's initial experience, it appears, in federal court.

Under the circumstances presented, pursuant to Rule 4(m), the court ALLOWS plaintiff an

extension up to and until December 6, 2021, in which to effect service on defendant in accord

with the relevant subsections of Rule 4, Fed. R. Civ. P. 4, and until December 13, 2021, to show

proof of that on this docket.

Unfortunately, the docket is replete with deficiency notices directed towards plaintiff.

Plaintiff's successive filings in response to those notices issued by the clerk have made difficult

efficient docket review in the case.

Plaintiff's counsel is required to review and study the court's Electronic Case Filing

Administrative Policies and Procedures Manual, and to contact the case manager directly in

advance of any filing, when question(s) arise, for guidance before the filing attempt is made.

Counsel is encouraged to avail himself of educational resources regarding his continued study of

the federal rules, with which he must become familiar and also, to study the court's local rules

where, as now understood, there are definite differences between state and federal practices.

The court notices that should failures persist going forward, it may not excuse errors. But

today it does and in this instance, defendant's request that the action now be dismissed fails where

plaintiff is allowed modest time extension to right the course.

**CONCLUSION** 

For reasons given, defendant's motion to dismiss is DENIED (DE 8). The court GRANTS

plaintiff's motion for an extension of time to effect service and show proof of that on the docket

(DE 23).

SO ORDERED, this the 4th day of November, 2021.

LDUISE W. FLANAGAN United States District Judge